THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7617 OF 2006

Dated:07.07.2006

Between:

M/s.Sama Constructions.

…Petitioner.

And

Sub Registrar, Saroornagar, Ranga Reddy District, and others.

…Respondents.

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7617 OF 2006

ORDER:

The petitioner is a firm. This writ petition is filed feeling aggrieved by the action of the Sub Registrar, Saroornagar Village, Ranga Reddy District, first respondent herein, in not registering and releasing the sale deeds in favour of the petitioners in respect of the land in survey No.9/4 bearing P.Nos.179, 180, 181 and 182/2004 on the ground that the petitioners did not produce 'No Objection Certificate' (NOC) from the third respondent, for a declaration that such action is illegal and arbitrary, and for a consequential direction to respondents 1 and 2 to register and release the sale deed to the petitioner.

The undisputed brief fact of the matter is as follows. By their orders in G.O.Ms.No.1215, dated 09.08.1965, the Government of Andhra Pradesh ordered to handover land admeasuring Acs.22.09 guntas in survey No.9/1 situated at Saroornagar village and Acs.14.31 guntas of land in survey No.49/13 situated at Bahadurguda village of Hyderabad East to M/s.South India Research Institute Private Limited (better known as SIRIS), Vijayawada and the District Collector, Hyderabad was directed to submit proposals for fixing market value of the land as well as other levies. It is the case of the petitioner that subsequently the land was alienated to SIRIS duly collecting market value @ Rs.3,000/- per acre as per Memo, dated 02.03.1966, and thus SIRIS, the fourth respondent herein, became the absolute owner of the property. In 1984, the fourth respondent sold an extent of Acs.0.23 cents of land in survey No.9/1J to one Smt.Pusapati Nalini, who in turn sold the said land to M/s.Sri Indra Distillery Limited. The petitioner purchased the land from M/s.Sri Indra Distillery Limited. Likewise, SIRIS sold the land in survey No.9/4 of Saroornagar village to Venkat who in turn sold the said land to M/s.Siri Cellars Private Limited, from whom the petitioner purchased the property under two different sale

deeds. Altogether four sale deeds were presented by the petitioner to the first respondent for registration in 2004 but they were kept pending with pending numbers as noticed hereinabove. It is the case of the petitioner that based on a letter addressed by the District Collector, the first respondent is insisting upon NOC from the Government. Therefore, the present writ petition is filed.

Initially the matter was listed before this Court on 18.04.2006 and the same was adjourned half a dozen times to enable the learned Assistant Government Pleader for Revenue (General) for filing counter. A counter affidavit is now filed and therefore the matter was heard finally and is being disposed of by this order. In their counter affidavit, it is admitted that the land admeasuring Acs.21.08 guntas in survey No.9/4 of Saroornagar village is allotted to SIRIS and that the sale deeds submitted by the petitioner in respect of part of the land in the said survey number were presented in the Office of the first respondent on 17.12.2004. It is stated that the documents were not processed for registration as there are specific instructions from the District Collector, Ranga Reddy District by way of a letter, dated 05.06.2003, addressed to the second respondent not to entertain the registration of the land in survey No.9 without NOC from the Collectorate. Therefore, the petitioner has to obtain NOC from the Government and place it before the registration authorities.

The learned counsel for the petitioner submits that the land in survey No.9/1 corresponding to new survey No.9/4 is absolute property of the fourth respondent in whose favour the Government alienated the land after collecting market value. Therefore, there was no necessity to obtain NOC again for sale of the land by those persons who purchased the property from the vendees of the fourth respondent. He would urge that the petitioner purchased the property from those persons who purchased the property under registered sale deeds and having registered those deeds, it was irrational on the part of the first respondent to keep the sale deeds submitted by the petitioner pending. Lastly, he would urge that even according to the communication, dated 05.06.2003, sent by the District Collector to the second respondent, the land in survey No.9/4 admeasuring Acs.21.08 guntas was shown as land alienated by the Government in favour of the fourth respondent, and therefore, there cannot be any objection for registration. **Per contra**, the learned Assistant Government Pleader for Revenue (General) submits that the first respondent kept the documents pending only due to the instructions issued by the District Collector and therefore, there is no illegality on the part of the Sub Registrar.

As noticed above, the land was alienated by the Government in

favour of the fourth respondent in 1965-1966, who in turn sold the land and those purchasers again sold the same to some other persons/concerns, the petitioner is the subsequent purchaser. Therefore, when the sale deeds executed by the fourth respondent were registered and the sale deeds executed by the purchaser of the fourth respondent were also registered, there cannot be any reason to refuse registration of the documents under which the petitioner purchased the property in survey No.9/4. The fact that the land was alienated in favour of the fourth respondent is also mentioned by the District Collector in his communication, dated 05.06.2003 to the second respondent. Therefore, unless and until it is shown to the Court that subsequent to the alienation of the land in favour of the fourth respondent and subsequent to registration of the sale deeds by the fourth respondent and others, there are any changed circumstances warranting the production of NOC from the Government, the action of the respondents 1 and 2 cannot be sustained legally. Secondly, as rightly pointed out by the learned counsel for the petitioner, no power inhers in the District Collector under the Registration Act, 1908 to refuse registration merely because once upon a time the land was the Government land, which was subsequently alienated for market value to a person/concern. This view is supported by the decision of this Court in **K.Sulochana v District Collector and District Magistrate, Kurnool**[1]. A learned single Judge after referring to an unreported Judgment of Division Bench in W.A.No.702 of 2002, held that Sub Registrar cannot refuse registration of a document on the strength of a Memo issued by Mandal Revenue Officer. The relevant observations are as under.

> This aspect is only an incidental question since the main grievance ventilated by the writ petitioners is that the documents are not being registered by the concerned Sub-Registrar. When the authorities are discharging statutory functions as specified by the statutory provisions, such powers or functions cannot be curtailed by mere executive fiat unless the same can be said to be in accordance with the provisions of the Act. By yet another valid legislation, if restrictions are imposed the registering authorities are bound to follow such statutory restrictions also unless and otherwise they can be said to be invalid. Executive fiat beyond permissible sphere cannot be approved by Courts. This is the area where judicial review of such action would come into play. The 1st respondent might have acted on certain representations made by a religious society. Though the anxiety is to protect the property of an institution, the mode adopted in enforcing the same cannot have judicial sanction. The registering authorities under the Indian Registration Act

> are bound to act in accordance with the provisions of the Act. Furnishing or non-furnishing of certain particulars while registering the documents etc., fall within the duties of the registering authorities who are expected to be guided by the provisions of the Indian Registration Act.

Therefore, this Court is of considered opinion that NOC is not required and for that reason alone, registration cannot be denied. This Court, however, hastens to add that if the documents submitted by the petitioner in 2004 cannot be registered for any other reasons, it is always open to the second respondent to record reasons for not accepting the document for registration and communicate those reasons to the petitioner. In such an event, the petitioner can avail the remedy under Section 72 of the Act.

In view of the above, the writ petition, subject to above observations, is accordingly allowed with costs.

(V.V.S.RAO,J)

07.07.2006
pln

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[1] 2005 (4) ALD 539